

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK REESE, FRANCES ELAINE PIDDE,
JAMES CICHANOFSKY, ROGER MILLER,
and GEORGE NOWLIN on
behalf of themselves and
a similarly situated class,
Plaintiffs,

Hon. Patrick J. Duggan

Case No. 04-70592

v.

Class Action

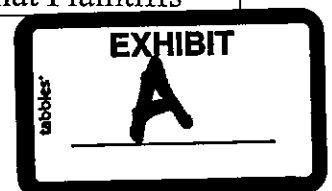
CNH GLOBAL N.V., formerly
known as Case Corporation,
and THE COMPANY LLC,
Defendants.

EXHIBIT A

TO

**REPLY TO CNH'S OPPOSITION TO PLAINTIFFS' MOTION TO
COMPEL ANSWERS TO FIRST INTERROGATORIES**

| Interrogatory No. | Request | Disposition/Argument |
|-------------------|--|--|
| All | Defendants posed boilerplate responses and generic objections. | The responses and objections do not sufficiently inform the parties of how and if the responses were limited by Defendants. These objections and partial/non-answers do not constitute a response and should be treated as a failure to respond under Fed. R. Civ. Proc. 37. |
| 3 | Identification of Lay Witnesses: Identify each person the Company expects to testify and/or provide information in support of its claims or defenses, and state the subject matter about which the witness has knowledge. | Defendants were ordered to respond. R. 360. Defendants supplemented on July 26, 2013 (received July 29, 2013), subject to its general objections. Defendants provided the names of two witnesses, one of which is the expected expert witness. Plaintiff relies upon the representation that this is a current complete list of witnesses the Defendants expect to call and the operation of Fed. R. Civ. Proc. 26(e). |
| 4 | Identification of Expert Witnesses: Identify each person the Company expects to use as an expert witness in this matter. | The Court has determined that Defendants "need not identify any person it expects to use as an expert witness until its expert reports are due." R. 360, Pg ID 12536. |
| 5 | Pension Information: State the name, address, date of birth, social security number, telephone number, date of retirement, type of retirement (e.g., disability, early, normal, survivor option) and gross pension benefit for every Class Member. As to each surviving spouse, state the | CNH provided, in its Second Supplemental answers an Exhibit D which contains, apparently, a portion of pension paid by CNH during an unspecified time period. Date of birth, telephone number, type of retirement and gross pension benefits are not provided. CNH reiterates its claim that it does not have the gross pension numbers in electronic form and that Plaintiffs |



| | | |
|---|---|--|
| | deceased retiree's name, date of birth and social security number. | have "equal access" to the information through their 2007 document inspection. |
| 6 | <p>Pension Information: Has the monthly pension benefit of any Class Member been increased since that Class Member retired? If yes, state the most recent date that any Class Member received an increase in monthly pension benefits and, if it was pursuant to a collective bargaining agreement, the date of the collective bargaining agreement. As to each Class Member who received such an increase in monthly pension benefits, state the amount of the monthly pension benefit before and after the increase.</p> | CNH made no changes to its answer in their Second Supplemental responses. |
| 7 | <p>Pension Information: Has the monthly Special Age 65 Benefit of any Class Member been increased since that Class Member retired? If yes, state the most recent date that any Class Member received an increase in Special Age 65 Benefit and, if it was pursuant to a collective bargaining agreement, the date of the collective bargaining agreement. As to each Class Member who</p> | CNH made no changes to their answer in their Second Supplemental responses. |

| | | |
|----|---|---|
| | received such an increase in monthly Special Age 65 Benefit , state the amount of the monthly pension benefit before and after the increase. | |
| 8 | Pension Information: Is the monthly pension benefit of any Class Member scheduled to be increased in the future? If yes, state the date of the increase(s) and the amount of the increase(s), and if it is pursuant to a collective bargaining agreement, the date of the collective bargaining agreement. | CNH made no changes to their answer in their Second Supplemental responses. |
| 9 | Pension Information: Is the monthly Special Age 65 benefit of any Class Member scheduled to be increased in the future? If yes, state the date of the increase(s) and the amount of the increase(s), and if it is pursuant to a collective bargaining agreement, the date of the collective bargaining agreement. | CNH made no changes to their answer in their Second Supplemental responses. |
| 14 | Costs Projections under the Proposed Plan: Under the Proposed Plan, state the projected annual cost to the Company for medical benefits each non-Medicare eligible participant for the following plan years: 2013, 2014, 2015, 2016, 2017, | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |

| | | |
|----|---|---|
| | 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated. | |
| 15 | <p>Costs Projections under the Proposed Plan:</p> <p>Under the Proposed Plan, state the projected annual cost to the Company for medical benefits each Medicare eligible participant for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 16 | <p>Costs Projections under the Proposed Plan:</p> <p>Under the Proposed Plan, state the projected annual cost to the Company for prescription drug benefits each non-Medicare eligible participant for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 17 | <p>Costs Projections under the Proposed Plan:</p> <p>Under the Proposed Plan, state the projected annual cost to the Company for prescription drug benefits each Medicare eligible participant for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021,</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |

| | | |
|----|---|---|
| | 2022. Describe how these projections were calculated. | |
| 18 | <p>Costs Projections under the Proposed Plan:</p> <p>Under the Proposed Plan, state the projected annual cost to each non-Medicare eligible participant for premium contributions for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 19 | <p>Costs Projections under the Proposed Plan:</p> <p>Under the Proposed Plan, state the projected annual cost to each Medicare-eligible participant for premium contributions for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 20 | <p>Costs Projections under the Proposed Plan:</p> <p>Under the Proposed Plan, state the projected annual cost to each non-Medicare-eligible participant for out of pocket medical expenses (e.g., deductibles, co pays and co insurance) for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021,</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |

| | | |
|----|---|---|
| | 2022. Describe how these projections were calculated. | |
| 21 | <p>Costs Projections under the Proposed Plan:</p> <p>Under the Proposed Plan, state the projected annual cost to each Medicare-eligible participant for out of pocket medical expenses (e.g., deductibles, co pays and co insurance) for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 22 | <p>Costs Projections under the Proposed Plan:</p> <p>Under the Proposed Plan, state the projected annual cost to each non-Medicare-eligible participant for out of pocket prescription drug expenses for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 23 | <p>Costs Projections under the Proposed Plan:</p> <p>Under the Proposed Plan, state the projected annual cost to each Medicare-eligible participant for out of pocket prescription drug expenses for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |

| | | |
|----|---|---|
| | Describe how these projections were calculated. | |
| 24 | <p>Cost Projections under the Current Plan: Under the Current Plan, state the projected annual cost to the Company for medical benefits for each non-Medicare-eligible participant for the following Plan Years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 25 | <p>Cost Projections under the Current Plan: Under the Current Plan, state the projected annual cost to the Company for medical benefits for each Medicare-eligible participant for the following Plan Years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 26 | <p>Cost Projections under the Current Plan: Under the Current Plan, state the projected annual cost to the Company for prescription drug benefits for each non-Medicare-eligible participant for the following Plan Years: 2013, 2014, 2015, 2016,</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |

| | | |
|----|---|---|
| | 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated. | |
| 27 | <p>Cost Projections under the Current Plan: Under the Current Plan, state the projected annual cost to the Company for prescription drug benefits for each Medicare-eligible participant for the following Plan Years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 28 | <p>Cost Projections under the Current Plan: Under the Current Plan, state the projected annual cost to each non-Medicare-eligible participant for out-of-pocket medical expenses (e.g., deductibles, co-pays and co-insurance) for the following Plan Years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated.</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 29 | <p>Cost Projections under the Current Plan: Under the Current Plan, state the projected annual cost to each Medicare-eligible participant for out-of-pocket medical expenses</p> | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |

| | | |
|----|---|---|
| | (e.g., deductibles, co-pays and co-insurance) for the following Plan Years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated. | |
| 30 | Cost Projections under the Current Plan: Under the Current Plan, state the projected annual cost to each non-Medicare-eligible participant for out-of-pocket prescription drug expenses (e.g., deductibles, co-pays and co-insurance) for the following Plan Years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated. | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 31 | Cost Projections under the Current Plan: Under the Current Plan, state the projected annual cost to each Medicare-eligible participant for out-of-pocket prescription drug expenses (e.g., deductibles, co-pays and co-insurance) for the following Plan Years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022. Describe how these projections were calculated. | Defendants supplemented their response to include the assumptions. Plaintiffs are satisfied with the supplemental response. |
| 34 | Other Factors: Does the Company intend | In their Second Supplemental responses, Defendants added, "CNH |

| | | |
|----|---|---|
| | to ask the District Court to consider any factors other than those identified on pages 6 and 7 of the Sixth Circuit's September 13, 2012 Opinion? If the answer is yes, identify and describe any other factors the Company will ask the District Court to consider. | further states that it considers exhaustive the questions suggested by Sixth Circuit in its 2012 opinion. CNH, however, reserves the right to address any factors that Plaintiffs raise." Plaintiffs construe this as a "no" answer and will rely upon that response unless CNH timely identifies any other factors/questions. |
| 36 | <p>Comparator Plans:</p> <p>Does the Company intend to compare the Proposed Plan with the plans available to retirees and workers at companies similar to the Company? If so, identify all companies that the Company intends to assert are similar to the Company and, as to each, describe how the Proposed Plan compares to plans available to those companies. As to each such company, identify all documents that the Company intends to use to support that position.</p> | Defendants' Second Supplemental responses added verbiage to their response to 36. However, the amended answer fails to identify the companies that CNH intends to assert are similar to CNH (Caterpillar and Deere are listed as examples), fails to describe the comparison and fails to identify documents. Defendants then assert that it will not provide an answer to the interrogatory until after its expert disclosures are made. |
| 37 | <p>"Changes in Health Care:"</p> <p>Does the Company contend that there are any "changes in health care" that are relevant to the issue before the District Court on remand? If the answer is yes, please describe these changes and identify each witness the Company</p> | Defendants' Second Supplemental response does not address the concerns raised in Plaintiffs' motion. Defendants assert that they will "not be pointing to specific drugs or medical procedures" but contends that "a substantial percentage of the costs of Plaintiffs' current plan are associated with the usage of drugs or procedures that were not available in 1998." |

| | | |
|----|--|---|
| | intends to call at trial to support its contention. | Defendants also “anticipate” using expert testimony a trial on this issue. |
| 38 | Potential Alternatives: Other than the Proposed Plan, did the Company explore any other potential changes to the Current Plan that would generate savings to the Company with a lesser financial impact on Class Members such as an Employer Group Waiver Plan or mandatory mail order prescription drug or mandatory generic prescription drug? If the answer is yes, please describe each proposed change and why the Company rejected it. | Defendant did not supplement this response. |
| 45 | Scott Macey Declaration: Identify each “former colleague at Aon Consulting” referred to in paragraph 27 of Mr. Macey’s Declaration of June 30, 2010 and describe each such persons’ participation in the review and evaluation referred to in Scott Macey’s Declaration. | Defendants contend that the materials received from unknown “former colleagues” from Aon Consulting will not “be part of” Macey’s “forthcoming expert disclosure.” Plaintiffs will rely upon that response and strenuously object to attempts by CNH to introduce any evidence of Macey’s interactions with Aon Consulting colleagues and the information exchanged between them. |
| 46 | Scott Macey Declaration: Identify each retiree health care plan that was reviewed or evaluated as discussed in paragraphs 27, 28, 29 and 30 of Mr. Macey’s June 30, 2010 Declaration and, by plan, identify and produce | Defendants contend that the materials received from unknown “former colleagues” from Aon Consulting (including evaluations of various retiree health care plans) will not “be part of” Macey’s “forthcoming expert disclosure.” Plaintiffs will rely upon that |

| | | |
|----|---|--|
| | each document related to the review or evaluation. | response and strenuously object to attempts by CNH to introduce any evidence of Macey's interactions with Aon Consulting colleagues and the information exchanged between them. |
| 47 | Scott Macey Declaration: Describe the methodology used in determining the "relative value" of the plans reviewed by Aon Consultants and identify and produce all documents reviewed in making those determinations. | Defendants contend that the materials received from unknown "former colleagues" from Aon Consulting (including evaluations of various retiree health care plans) will not "be part of" Macey's "forthcoming expert disclosure." Plaintiffs will rely upon that response and strenuously object to attempts by CNH to introduce any evidence of the relative value analyses. |
| 48 | Identification of Exhibits: Identify all documents the Company intends to use, either in summary judgment proceedings or at trial, to support its position that the benefits in the Proposed Plan are reasonable. | Defendants were ordered to respond. R. 360. Defendants supplemented on July 26, 2013 (received July 29, 2013), subject to its general objections and describing categories of documents not yet disclosed, e.g. "the documents that will be catalogued in CNH's expert disclosures." CNH also states, "a final list will be provided in any mandatory pretrial disclosures." |